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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,	:	
Plaintiff,	:	Criminal Action No.
v.	:	1-01-cr-10384-LTS
GARY LEE SAMPSON,	:	
Defendant.	:	

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BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

SENTENCING

Friday, February 3, 2017
9:34 a.m.

John J. Moakley United States Courthouse
Courtroom No. 13
One Courthouse Way
Boston, Massachusetts

Rachel M. Lopez, CRR
Official Court Reporters
One Courthouse Way, Suite 5209
Boston, Massachusetts 02210
raeufp@gmail.com

A P P E A R A N C E S

On behalf of the Plaintiff:

UNITED STATES ATTORNEY'S OFFICE - MASSACHUSETTS
BY: ZACHARY R. HAFFER AND DUSTIN CHAO
John Joseph Moakley Courthouse
One Courthouse Way, Suite 9200
Boston, Massachusetts 02210
(617) 748-3106
zachary.haffer@usdoj.gov
dustin.chao@usdoj.gov

On behalf of the Defendant:

LAW OFFICE OF MICHAEL BURT
BY: MICHAEL N. BURT
1000 Brannan Street
Suite 400
San Francisco, California 94103
(415) 522-1508
mb@michaelburtlaw.com

WILLIAMS & CONNOLLY, LLP
BY: WILLIAM E. MCDANIELS AND JENNIFER G. WICHT
725 12th Street, Northwest
Washington, D.C. 20005
(202) 434-5055
wmcdaniels@wc.com
jwicht@wc.com

1 **P R O C E E D I N G S**

2 (In open court.)

3 THE DEPUTY CLERK: The United States District Court
4 for the District of Massachusetts is now in session, the
5 Honorable Leo T. Sorokin presiding.

6 Today is February 3rd, the case of United States
7 vs. Gary Lee Sampson, criminal action 01-10384, will now
8 appear before this Court.

9 Counsel, please identify themselves for the record.

10 THE COURT: Go ahead.

11 MR. HAFER: Good morning, Your Honor. For the
12 United States, Assistant US Attorney Zach Hafer and Dustin
13 Chao.

14 MR. BURT: Good morning, Your Honor. Michael Burt,
15 William McDaniels, Jennifer Wicht for Mr. Sampson, who is
16 present.

17 THE COURT: Good morning. All right. As you can
18 see, we have two of the jurors who are here. They're here at
19 my invitation and with my permission. They're seated in the
20 jury area, and that's really -- out of courtesy and respect
21 for the role that they played in this case. They're
22 obviously not a jury or part of a jury anymore.

23 But nonetheless, I want to thank you again for the
24 service that you rendered in this case.

25 We're here to impose sentence today on Mr. Sampson,

1 pursuant to the jury's verdicts. Because both of these
2 offenses are capital offenses, there's no presentence report
3 that's been prepared or one to review. As counsel knows,
4 there was a presentence report prepared last time. That was
5 done not for purposes of sentencing, but at the request of
6 the Bureau of Prisons. The Bureau of Prisons, as far as I
7 know, has not requested an update, and I don't see any reason
8 why an update is required.

9 So unless someone has another request or something
10 different, we'll proceed in the following order: First,
11 Government Counsel, the members of the victim's families that
12 wish to speak, may speak in whatever order, Mr. Hafer, you
13 choose.

14 And then Mr. Burt, you may speak. And if he
15 chooses to do so, Mr. Sampson may say something or not.

16 Is there anything we need to do before we proceed
17 with that?

18 MR. HAFER: No, Your Honor.

19 THE COURT: All right. Mr. Hafer, so from my
20 perspective, the family members may speak either from the --
21 here on my right, the sort of witness box, or from the
22 podium, whatever you and they feel more comfortable with.

23 MR. HAFER: I think we were going to use this here,
24 if that works, Your Honor.

25 THE COURT: That's fine. That's absolutely fine.

1 MR. HAFER: So Your Honor, I just have a few
2 minutes of remarks I'd like to make and then --

3 THE COURT: Go right ahead.

4 MR. HAFER: There will be four -- four members of
5 the families speaking. Scott McCloskey will speak first,
6 Nick Rizzo, then Mike Rizzo, and then Mary Rizzo.

7 THE COURT: Okay.

8 MR. HAFER: Your Honor, we ask that you impose the
9 jury's sentence, and we ask that not just because the jury
10 sentence is required by law, although that, of course, would
11 be reason enough, but we ask that you impose the jury
12 sentence for the same reason that the Government has pursued
13 this case for the last 15 years, which is that for this
14 defendant, the death penalty is the just sentence. It is
15 justice. It is justice because what the defendant did to the
16 kind and loving Philip McCloskey, Jonathan Rizzo, and Eli
17 Whitney was pure evil, the acts of a man with no basic
18 humanity.

19 It is justice because, to this day, the defendant
20 has no remorse for the cruel murders he inflicted, the good
21 families he devastated. He's not sorry. Instead he remains
22 self-obsessed and entitled, continuing to demand respect and
23 special treatment for his acts of cowardice. And when he is
24 not before --

25 MR. SAMPSON: And you're a fucking asshole.

1 THE COURT: Hey. Quiet.

2 MR. SAMPSON: Listen to this fucking bullshit.

3 THE COURT: Mr. Sampson, be quiet now. Shut up.

4 MR. SAMPSON: Oh, fuck you, get out of here.

5 THE COURT: No, Mr. Sampson, be quiet.

6 Go ahead, Mr. Hafer.

7 MR. SAMPSON: Asshole.

8 MR. HAFER: As proven, as stated, he continues to
9 demand respect and special treatment for his acts of
10 cowardice. And they were cowardly. And when he's not before
11 you, Your Honor, or a jury who is deciding his fate, just
12 like he just did, he brags and he gloats about what he's
13 done. He says, "I'm a stone cold killer."

14 Finally, Your Honor, the death penalty is
15 appropriate in this case. It is justice in this case,
16 because it will be imposed here in a courtroom, pursuant to
17 laws passed by Congress, and only after the defendant has
18 been afforded every single right, protection, and safeguard
19 required by law and the Constitution in this case.

20 As Your Honor knows, since 2001, the defendant has
21 been ably represented by over 20 attorneys, including several
22 learned counsel from across the country, distinguished
23 members of the Massachusetts bar, and one of the Nation's
24 premier law firms based in Washington, D.C. These attorneys
25 have fought tooth and nail for the defendant at every turn.

1 Regarding the retrial of this case, which began
2 last September, the defendant was again able to mount a
3 vigorous defense, able to tell his life story to the jury
4 through fact witnesses he was able to subpoena to court, and
5 through dozens of experts he was able to retain. And the
6 defendant was able, as the law requires, to present his case
7 to fair and impartial citizens, jurors who listen carefully
8 to all the evidence and who served at great personal
9 sacrifice, who saw and heard things they'll likely never
10 forget, and ultimately, who were asked to make a weighty,
11 moral decision, which they did.

12 And we thank the jurors sincerely and deeply for
13 their service in this case.

14 Now, the reason all the process and rights and
15 protections are important and worthy of mention today, Your
16 Honor, is because they were required by law in this case.
17 But the law also provides that if a jury of fair and
18 impartial citizens so decides that the death penalty for
19 defendants who are the worst of the worst is appropriate --
20 and make no mistake about it, they don't come any worse than
21 Gary Lee Sampson.

22 In the long history of this case, Your Honor, in
23 which the victims' families have persevered for over a decade
24 and a half, seeking justice to honor the loss of their
25 beloved family members, 24 citizens of Massachusetts have now

1 rendered a moral decision as to the proper sentence, as to
2 what is justice. And each and every single one of those
3 Massachusetts citizens, 24 out of 24 has determined, beyond a
4 reasonable doubt, that the just punishment in this case,
5 justice in this case is the ultimate punishment.

6 We agree, Your Honor, and we ask that you impose a
7 sentence of death on Gary Sampson.

8 THE COURT: Thank you, Mr. Hafer.

9 Is Mr. McCloskey going to speak?

10 MR. HAFFER: Yes. Scott McCloskey will be first,
11 Your Honor.

12 THE COURT: Go ahead, Mr. McCloskey.

13 MR. MCCLOSKEY: Okay. You know, I've sat quietly
14 here in this courtroom in not one, but two trials, and what I
15 would give to say hi to my father or hear his voice again,
16 is, you know, something that -- because he took that away
17 from me. It's been a tough 16 years and no one should have
18 gone through what our families have gone through. We have
19 had to go through this, because you took the life of our
20 fathers, whose life wasn't yours to take.

21 You showed no remorse and your apology was robotic.
22 My father deserved to retire and enjoy his remaining years.
23 You took that from him, you took that from us. And because
24 you chose to kill three people and you had no problem doing
25 it, but you're afraid to die, shows how much of a coward you

1 really are.

2 You spent your whole life blaming everyone else for
3 their actions. There's plenty of people whose father smacked
4 them around, plenty of people who knew when to keep their
5 mouth shut and get the crap kicked out of them, so these
6 excuses don't work for me. For what you've done, you just
7 did what you did for attention. You've gotten plenty of
8 that. It seems like, to me, the center of attention, as long
9 as it's all about Gary.

10 Well, I hope when the day comes, you'll realized
11 that the price to be paid, as the Bible says, an eye for an
12 eye, a tooth for a tooth. And, god bless my father,
13 Jonathan, Eli.

14 And last but not least, may you rot in hell, you
15 son of a bitch.

16 MR. SAMPSON: I'm already there.

17 THE COURT: Thank you, Mr. McCloskey.

18 Mr. Hafer, is Nick Rizzo next?

19 MR. HAFER: Yes, Your Honor. Nick Rizzo. Thank
20 you.

21 MR. NICK RIZZO: Good morning, Your Honor.

22 THE COURT: Good morning.

23 MR. NICK RIZZO: It's hard to explain how different
24 this iteration of the trial was for us. I was just a boy in
25 2003, but in that trial, the judge tripped over himself to

1 make sure the defendant's rights were preserved. The jury
2 couldn't see us, you know, what shame we felt for the most
3 human reactions. And this was in the name of the law.

4 The strange thing is, to be wronged by an
5 institution is a special kind of pain. It was a betrayal by
6 a system that is meant to protect us. There is some
7 brilliant legal minds in here, I know. And I have no doubt
8 that you can make an argument for how we were treated in the
9 first trial, but it felt -- it felt unreal.

10 All that is to say that your patience, grace, and
11 consideration during this trial was so important to us, and
12 I'll never forget it for the rest of my life. So thank you.

13 I'm sorry -- I meant to say in the beginning, that
14 is on behalf of myself and Elliot. I'm sorry. I got caught
15 up.

16 THE COURT: That's fine. Thank you.

17 MR. NICK RIZZO: There is the trauma of having lost
18 our brother. It's well known and digested and publicly
19 understood, but it's an entirely separate trauma to listen to
20 the details of your brother's murder debated; for example,
21 there was a question of the color of Jonathan's hands due to
22 ligatures, and have to sit still. Is that not torture? Is
23 it not something unbearably inhumane to see pictures of the
24 decay of your brother's body and at the same time be asked to
25 keep quiet? The pain of this murder seems to be perpetrated

1 against us over and over and over again.

2 I'm not sure, truly, that defense counsel was aware
3 of that.

4 And the strange thing about this trauma is that it
5 gets easier and harder at the same time. It gets easier
6 because time creates distance between us and what happened,
7 the wounds feel less raw, but it gets worse because as time
8 goes on, I understand more. I know more intimately the
9 relationship my parents had with Jonathan. Because of my
10 time in the military, I know what it's like to be tied up and
11 helpless.

12 I reached milestones, and I feel the loss more
13 acutely. I see patients and I compare their injuries to
14 Jonathan's, and I wonder, irrationally, if I could have saved
15 him.

16 I go to where Jonathan was killed and I feel the
17 heaviness of that place. So when I hear testimony about how
18 much force it takes to drive a knife through a breastbone, or
19 worse, when I hear defense counsel and witnesses suggest that
20 these details don't matter, it's practically unbearable.

21 We watched you, Defense Counsel, rub Mr. Sampson's
22 back. I sat next to a woman on your team who laughed and
23 joked with some seemingly distinguished visitors. On our
24 side of the courtroom, we could barely even drink water. I
25 wondered if you had any idea how closely we watched your body

1 language. Even for our disagreement, we yearned for some
2 indication that you were aware of our suffering, yet only one
3 person on your team, Mr. McDaniels, ever offered us a show of
4 sympathy that was not perfunctory.

5 Mr. Sampson, we don't have much to say to you. We
6 don't even know what to say to you. After the verdict came
7 down, my father said to the press that this goes to show you
8 that we will never give up. There's a small part of me that
9 hopes that you feel chilled by that. We will never, ever,
10 ever give up.

11 I see we have a few members of the jury today. I
12 don't even know how to thank you guys, honestly. I watched
13 you and wondered how the weight of this trial would affect
14 you. I felt it was so unfair that this had to be a part of
15 your lives. At the end of the trial, after the suspense of
16 the verdict, the defense asked for you all to be polled.
17 That validation was overwhelming. Time slowed down for us in
18 that moment.

19 The question was: Do you agree with the verdict as
20 it was reported here today? As we went down the line, this
21 is what we heard: I agree that you are hurt. I agree that
22 this was wrong. I agree that you didn't deserve this. I
23 agree that you will feel this pain for the rest of your life.
24 I agree that you shouldn't have had to take care of your
25 mother when you were in high school. I agree that you

1 shouldn't have had to tell your mother that you could not
2 look inside Jonathan's casket, because his body was decayed.
3 I agree that you shouldn't have trouble answering simple
4 questions about how many siblings you had. I agree that you
5 shouldn't be scared to have children of your own. I agree
6 that Mr. Sampson somehow brings out the abhorrent in others,
7 even decent people. I agree that Mr. Sampson deserves the
8 worst punishment that we can give.

9 This weekend a friend of mine had an accident while
10 I was doing some military training in Alaska, and I was his
11 medic. He broke both of his feet and part of his back. He
12 was in agony. We treated a bleed, splinted his feet, and
13 managed his pain. In the ambulance, on the way to the
14 hospital, he grabbed my hand and held it all the way to the
15 emergency room. When he got out of surgery the next morning,
16 he thanked me, crying, for holding his hand because he was so
17 scared. It pained me so much to remember, in his last
18 moments, how scared Jonathan must have been and how he had
19 probably wished for a hand to hold.

20 Thank you for the opportunity to speak today.

21 THE COURT: You're welcome.

22 MR. HAFER: Mr. Rizzo, Your Honor.

23 THE COURT: Mr. Rizzo.

24 MR. MICHAEL RIZZO: Good morning, Your Honor,
25 Members of the Court, Members of the Jury.

1 First, I would like to thank you, Your Honor, much
2 as Nick said, and your staff for the tremendous effort you
3 put in to manage these proceedings. I'm sure it was a
4 daunting effort to keep this on track.

5 But secondly, and maybe more importantly, I want to
6 thank you for -- on behalf of the McCloskey, Whitney and
7 Rizzo families for your concern, your consideration, your
8 genuine human feeling for what we were going through. Your
9 feelings in allowing us to be part of the process as much as
10 possible, included where we could, sharing information every
11 time you could. And maybe even most important, creating a
12 safe space for -- in another courtroom, where the family
13 members could go out of the public eye to recompose ourselves
14 after listening, yet again, to evidence and testimony --
15 evidence and testimony that nobody should have to listen to
16 about their family members, even once, never mind twice.
17 This was such an 180-degree difference between this and what
18 we went through the last time that we thank you for that.

19 THE COURT: Thank you.

20 MR. MICHAEL RIZZO: The members of the jury who are
21 here, although the rest of them are not here and in the jury
22 box today, I'd like to go on the record to thank you for
23 investing the time and mental and physical energy to come in
24 here every day. I know what it's like to muster that courage
25 and resolve every day, to come in and listen and see horrible

1 evidence and pictures and hear horrible testimony that will
2 probably stay with you for the rest of your life; and then
3 leave here at the end of the day and go back to your families
4 with some semblance of sanity. I know what it's like to do
5 that, and I appreciate the fact that you were able to do it.

6 I hope that the things you saw and heard don't stay
7 with you and haunt you the rest of your life as they have for
8 us. I do, however, hope that you remember the pictures we
9 painted of Jonathan and Eli and Phil and who they were, and
10 remember them for what they represented by how they led their
11 lives.

12 Our lives take some very strange twists, and we
13 certainly know that by now. And I find myself standing here
14 for the second time, hoping that after 15 years, the justice
15 we have sought after for Phil, Eli, and Jonathan will finally
16 be delivered without additional frustrating delay and
17 frustrations.

18 You know, we've now had 15 years of living without
19 Jonathan. Last time I stood up here, I had to assume or
20 project or imagine what life would be like without him. Now
21 I have 15 years of doing that, and I understand what it's
22 like. And he's not present at any of our family
23 celebrations. He wasn't here a couple of years ago when Nick
24 got married. He won't be here next year when Elliot gets
25 married. There are things that we can't replace and can't

1 fix.

2 The pain and the mental anguish that Mr. Sampson
3 has inflicted on our family is completely indelible. It will
4 never go away, we will never be able to erase those images
5 from our heads. The self-doubt that I have will continue and
6 stay with me for the rest of my life.

7 However, as I have said many times before and I say
8 it again, we are stronger than him and people like him. We
9 are better than him and people like him. And we refuse to be
10 beaten down by this horrific tragedy and the process it takes
11 to get to justice.

12 We have started a foundation in Jonathan's name to
13 help support the causes that he believed in through his life,
14 especially making sure that children, all children, have a
15 fair chance in life. But maybe the most important thing out
16 of that foundation is for us to remember -- for us to not
17 have Jonathan be forgotten. I think that's one of a parents'
18 worst thoughts, is that you have a child who lives with you
19 for 19 years and everybody else would forget him. So we're
20 trying our best not to let that happen.

21 No doubt our other sons, Nick and Elliot, have
22 grown into men who have the same caring feeling for their
23 fellow men, love of their families, and dedication to being
24 good and moral people, and we are so proud of them. It gives
25 us some insight into what kind of person Jonathan might have

1 grown up to be and -- if he had had the chance, and how
2 interesting it would be to see the three of them together as
3 men.

4 Through all this passage of time, the thought never
5 leaves my head that Mr. Sampson, despicable waste of human
6 life, still breathes. Irrespective of the conditions that
7 he's forced to live in, which are of his choosing, he's able
8 to read, learn, watch television, and other things, have hope
9 that, no matter how slim, someday he may have a family. All
10 things that Jonathan won't have the opportunity to do.

11 So this long journey has always been about never
12 giving up, never letting the absurdities of the process make
13 us quit in exasperation, which there were many opportunities.
14 And we heard many times throughout the trial that Mr. Sampson
15 was scared of being hurt or killed by policeman, scared of
16 prisoners or guards who actually fight back and have some
17 power. While I can't make Mr. Sampson experience the sense
18 of terror, pain, and fear that all three of his victims felt
19 during their time with him, I'll have to be satisfied with
20 the knowledge that some day, hopefully soon, somebody else
21 will come to take Mr. Sampson's life, and there will be
22 nothing he can do about it. And until then, I hope he
23 remains scared.

24 Thank you, Your Honor, for the time. I appreciate
25 it.

1 THE COURT: Thank you.

2 Ms. Rizzo.

3 MS. RIZZO: Thank you, Your Honor, Judge Sorokin.
4 You have treated everyone in this courtroom with respect,
5 dignity, and kindness. Our whole family and everybody here
6 appreciated it.

7 To the jurors, as I said at the press conference, I
8 will continue to pray for you. I will pray that none of the
9 horror or the images stay in your mind, and you'll only
10 remember the love that was felt for our children, Philip and
11 Eli.

12 I came every day to this retrial only to represent
13 Jonathan's love and the love I have felt for the McCloskey
14 and Whitney families. I did not come for any particular
15 verdict. Mr. McDaniels, you were the only one on the entire
16 defense team who said you were sorry for our loss. Thank you
17 for your decency.

18 It is so hard to believe that this retrial has been
19 more difficult than the first. Many of us feel this way.
20 Maybe it's because of technology. Every picture, video, or
21 voice seemed more vivid, graphic, and horrific. Perhaps it's
22 been the many ludicrous excuses, one after another, for
23 Sampson's behavior. But the hardest of all was Nick and
24 Elliot here witnessing all the details for the first time. I
25 could see the pain in their eyes, and I wanted it so

1 desperately not to be there and not to be a part of their
2 life.

3 A million times I have apologized to Mike, Nick,
4 and Elliot for not being the wife or mother they deserved and
5 were entitled to those first years. I never stopped loving
6 them, but I was in a dark hole, just struggling to find some
7 light. I wasn't capable of anything, except just loving
8 them. Even their sports at school seemed violent, and I
9 thought they might die, as well. I waited up for them on the
10 couch, thinking if they also didn't come home, it would be my
11 fault and no one else, just as I first believed it was my
12 fault that Jonathan died. I even questioned, should we have
13 raised him not to be so kind? I lost those years not only
14 with Jonathan, but with his brothers, as well. So much
15 unbearable pain. But finally, I have realized, Sampson is
16 the one to blame, not me.

17 Excuse me.

18 Yet my nights continue to be haunted after all
19 these years. Treatment after treatment I have tried, and I
20 will continue to try. During the days, I am able to push you
21 out of my mind, as you do not deserve to be there. But the
22 nights, the sleepless nights, I feel Jonathan's terror. I
23 watch him die on that tree, but I can't help him. And when I
24 see the disappointment in Jonathan's eyes, that his kindness
25 wasn't enough, it's all because of you.

1 On July 3, 1982, Jonathan took his first breath of
2 life, an almost ten-pound baby, placed on my heart, and I
3 thought the world would stop. How was it possible to love
4 someone so deeply in just one moment of time?

5 On Tuesday, July 10, 2001, Jonathan stood in our
6 kitchen counter and exclaimed to Mike and I, "I just love my
7 life." Mike and I looked at him in awe and we told him, "You
8 are blessed, as someone will never, ever feel that way in a
9 lifetime." Even though it was 17 days later that you took
10 him from us, I thank god he felt this way.

11 Excuse me.

12 July 27, 2001, after the longest four days of our
13 life, searching for Jonathan, he took his last breath from
14 the hands of evil. The world stopped for our family, his
15 friends and strangers, as well. All my beliefs were thrown
16 into the wind. As a mom, you always worry that your children
17 would get sick or get in an accident. Jonathan had many
18 serious illnesses as a child, and I would hold him in my arms
19 and I would walk with him and say -- saying, "You are my
20 sunshine, please don't take my sunshine away." Never, ever
21 did murder enter my mind.

22 You changed that, Mr. Sampson. You took my
23 sunshine away.

24 Once July was my favorite month. Now my family
25 just gets through it.

1 For 15 years, I have prayed you would show some
2 remorse. Many times I even thought of visiting you or
3 writing to you, hoping you had some regret. Gratefully, I
4 was talked out of both, because others knew better.

5 Now I know, without any doubt, you have no remorse.
6 You, as always, only think of yourself. You even allowed the
7 defense to speak horribly of your parents, who you know loved
8 you. You're nonemotional cold apology was pathetic. I know
9 you squirmed when you listened to your fellow inmates and
10 expert witnesses when they talked about your sexual
11 orientation and your lack of tolerance of people of color.
12 It was good to know you were uncomfortable.

13 I don't know if you'll ever receive the death
14 penalty. I don't really care. I do care that you'll have
15 more restrictions on death row.

16 People say to me all the time, "Isn't life in
17 prison worse than the death penalty?" I, too, once thought
18 this. But I have been appalled at all you receive and all
19 the privileges given to you. If people want to talk about
20 unconstitutional, maybe this is where they should begin.
21 Life in prison really isn't so bad, and I don't feel like you
22 are suffering at all. In fact, many people, good, decent
23 people that we continue to help through Jonathan's
24 foundation, have much less in life than you. It is unfair,
25 unjust, and inconceivable.

1 Many have asked, if you were put to death, if I
2 will attend. I will not. Death should be beautiful and
3 dignified. Loved ones should surround you and comfort you as
4 you leave the world and return to heaven. You could have had
5 this, but instead you choose to live a life of violence and
6 betrayed all those who loved you. You took this away from
7 Jonathan, Philip, and Eli. I hate that you were the last
8 person to see their eyes. Jonathan had amazing, beautiful,
9 blue, soulful eyes.

10 It torments me that even after his death, I was not
11 allowed to hug him or even kiss the back of his hand. I
12 begged everyone. You killed and tortured Jonathan, and you
13 left him in the woods for four days of sweltering heat. You
14 took away any chance of me being able to hold him. I will
15 never forgive you for this, nor do I believe god will.

16 In one of the newspapers, somebody told me that I
17 was quoted as saying, "My family has been irreparably
18 damaged." I don't believe I would ever say those words, but
19 how could this not be true? At every family event, there's a
20 hole. Most of his friends are married with children. I
21 think of what a great husband and dad Jonathan would have
22 been. We talk about Jonathan all the time. But still after
23 all this time, I still just want him to come home.

24 I know you don't care about anything that I've said
25 today, but since this is the last time that I will ever see

1 your evil face, I'm doing it for me and not you. Expressing
2 anger has always been hard for me, but after this trial, I
3 could now admit that I hate you. I never thought in my
4 entire life that I could hate anyone, but I hate you.

5 After Jonathan's death, my biggest fear was that
6 Nick and Elliot would grow up to be cynical and angry to the
7 world. This couldn't be further from the truth. They are
8 caring, compassionate, and believe that giving is still a way
9 of life. We are a family and a community of love and
10 goodness. This you could not touch or take away from us.

11 You did not destroy us. We will always miss
12 Jonathan. I believe with my entire being that he is in
13 heaven, and we will some day be reunited as mom and son. No
14 amount of pain will ever make me regret having him just for
15 19 years. And I look forward to the day when I can hug my
16 sunshine again.

17 Thank you.

18 THE COURT: Thank you, Mrs. Rizzo.

19 MS. RIZZO: Sorry.

20 THE COURT: Mr. Hafer, that concludes the
21 Government's presentation?

22 MR. HAFER: Yes, Your Honor.

23 THE COURT: All right. Mr. Burt, do you have
24 anything to say?

25 MR. BURT: Your Honor, I don't think Mr. Sampson

1 wishes to make a statement.

2 THE COURT: Okay.

3 MR. BURT: And on our part, I just wanted to
4 clarify. It's our understanding the Court is going to impose
5 sentence and then consider the motions that are pending and
6 that will be filed after the judgment is pronounced?

7 THE COURT: Yes. The -- so I'll say, I issued, I
8 think a week ago, an order listing those motions that I
9 thought remain pending; that is, I thought I had resolved
10 everything that had been filed since the case was assigned to
11 me, plus all those motions that were pending at the time it
12 was assigned to me, that you identify -- that you and
13 Mr. Hafer had identified from prior times, and I listed them
14 for you -- there were a handful. I don't have it right in
15 front of me.

16 And since then you filed, I think, two more. And
17 you filed a joint -- the two of you filed a joint response,
18 listing -- I think you indicated there weren't any others,
19 other than what I had listed.

20 MR. BURT: Correct.

21 THE COURT: In any event, the two that you filed
22 the other -- two days ago, a day ago, I don't view either of
23 those motions as impediments to me imposing -- I've read
24 them. I don't think either -- based on what I've read,
25 precludes imposition of sentence now. I'm likely to issue an

1 order about them, but none of your rights or Mr. Sampson's
2 rights are waived by my proceeding now. And I just haven't
3 had an opportunity to issue a ruling on them, but I don't
4 think that they preclude the imposition of sentence now.

5 MR. BURT: Thank you for clarifying that, Your
6 Honor.

7 THE COURT: All right. And obviously, to the
8 extent -- I think it's clear on the written record, but I set
9 a schedule for filing post-trial motions, and that stands.
10 And obviously you can file those motions, and then whatever
11 oppositions come in. And I'll review those motions at that
12 time and rule on them as a --

13 MR. BURT: Thank you.

14 THE COURT: And so you don't have anything else?

15 MR. BURT: No, Your Honor.

16 THE COURT: And nor does Mr. Sampson wish to speak?

17 MR. BURT: Correct.

18 THE COURT: All right. Fine. So we're here today
19 because of and for three kind, generous people: Philip
20 McCloskey, Jonathan Rizzo, and Robert Eli Whitney. Each was
21 murdered by Gary Sampson. But for the defendant's horrific
22 acts, these three men wouldn't have suffered what must have
23 been terrifying ends to their kind and generous lives; but
24 for the defendant's horrific acts, we would not have had a
25 multistate police investigation, two trials, multiple

1 appeals, and 16 years of legal proceedings. The entire
2 purpose of these proceedings has been to respond, under the
3 law, to the horrific acts of the defendant.

4 Back on July 31, 2001, the day that the Vermont
5 State Police arrested the defendant, he asked Trooper Ray
6 Keefe, "You're going to take me out and do me a favor and
7 shoot me?"

8 Trooper Keefe said, "No, can't do that."

9 Trooper Keefe was exactly right. We live by the
10 rule of law. No matter how strong the case, no matter how
11 clear the outcome appears, we follow our legal process and we
12 follow it properly. Under our law, not Trooper Keefe, not
13 the police, not the prosecutor, not the judge, may impose a
14 death sentence on a defendant. Only a jury, composed of
15 honest, ordinary citizens, may do that. A jury verdict for
16 death requires agreement of all 12 of these jurors.

17 The rule of law is why we had a second trial, for
18 as it turns out, unfortunately, one juror in the first trial
19 was dishonest. The application of the rule of law there was
20 clear, Judge Wolf so ruled, and the United States Court of
21 Appeals for the First Circuit agreed unanimously.

22 Retrying this case, no doubt, imposed an
23 incomprehensible burden on the families of Philip McCloskey,
24 Jonathan Rizzo, and Robert Eli Whitney. The losses each
25 family suffered from the murders were monumental. The

1 evidence at the trial was at times graphic and disturbing.
2 Living and reliving these experiences, throughout the course
3 of the legal proceedings these past 16 years, must have been
4 exceedingly painful.

5 Yet every day, you came to court. You gave honest,
6 forthright, and heartwarming testimony. Watching your stoic
7 heroism each day reminded me of the words of another murder
8 victim from Massachusetts. He said, "We shall pay any price,
9 bear any burden, meet any hardship in order to assure the
10 survival and success of liberty." That is what you have each
11 done.

12 You suffered a grievous loss at the hands of the
13 defendant. Out of your commitment to lost family members and
14 your sense of justice, you have done what President Kennedy
15 described. What you have done could not have been easy.
16 Adherence to the rule of law is not always easy and sometimes
17 it asks more of some than others, as it surely did here. But
18 you bore those burdens, you met those hardships with courage
19 and with dignity. The steely commitment to the rule of law
20 is -- that you demonstrated is what has distinguished our
21 nation throughout history.

22 Applying the rule of law in this case has resulted
23 in different sentences for the two crimes before the court.
24 However -- and this is an important however, the value of a
25 human life is not determined by the sentence imposed. The

1 lives of Jonathan Rizzo and Philip McCloskey were different
2 in many ways. Jonathan was a young man, venturing into an
3 adulthood, full of the promise of service, success,
4 friendship, family, and joy. Philip was retired and
5 relishing a life full of kindness to others and deep family
6 relationships. Despite these outward differences, both were
7 similar. Each was admired, loved, and cherished by friends
8 and family alike. Each was senselessly, thoughtlessly, and
9 heinously killed for no reason.

10 The same is true of Robert Eli Whitney. Philip
11 McCloskey, Jonathan Rizzo, and Eli Whitney are equal before
12 the law. They lived good lives, they touched many people,
13 and they live on in all of the goodness they brought to the
14 world and to others.

15 They live on in other ways, as well. Philip
16 McCloskey's children are raising his grandchildren, inspired
17 by the example of hard work, good humor, and generosity he
18 demonstrated in his life. The members of the Rizzo family,
19 each in their own way, have continued Jonathan's compassion
20 and service. Together they created a foundation to help
21 others in Jonathan's name. Elliot Rizzo has devoted his
22 career to the highest calling in our nation, public service.
23 Nick Rizzo, himself, has performed years of public service
24 and has taken great personal risks to save others facing
25 death.

1 Finally, the McCloskey, Rizzo, and Whitney families
2 have an enduring love for each other and for Philip,
3 Jonathan, and Eli, and this love will, I hope, sustain you.

4 There is something else you should know. Judges
5 wear the black robe both as a reminder to one's self and as a
6 symbol to others, that the authority we wield is not our
7 personal authority as individual men and women, but public
8 authority bestowed upon us in a sacred trust as part of the
9 rule of law. As part of that obligation, I have strived to
10 ensure that every aspect of this trial conforms scrupulously
11 to the rule of law, because that is what the law demands,
12 that is what the parties deserve, and that is what the
13 profound importance of this case required.

14 Nonetheless, at times, a personal comment is
15 appropriate and this is one such time.

16 While I doubt there's anything I've said or can say
17 that can offer any comfort of piece of mind to the victim's
18 family members, for what it's worth, I want you to know that
19 not a single day has gone by since the case was reassigned to
20 me on January 6, 2016, that I have not thought about your
21 loved ones, the last moment of their lives, or the heinous,
22 cruel, and senseless manner in which the defendant killed
23 them.

24 I want you to know that although the defendant's
25 acts infinitely and uniquely harmed you, you are not alone in

1 mourning Philip, Jonathan, and Eli. I, and I think every
2 other person who has witnessed this trial, who has seen the
3 evidence of the defendant's horrific acts and who has heard
4 about the kindness of your loved ones, will carry those
5 thoughts forward long after we recess today.

6 I want you to know that in some small way your pain
7 is shared, your loved ones are remembered, their lives
8 mattered.

9 Now, Mr. Sampson, you had a first trial. The judge
10 committed no error. There was no fault by the prosecution,
11 nor ineffectiveness by defense counsel, but misconduct of a
12 juror required another trial. So you had a second trial.
13 This trial was a fair trial. You were accorded every right
14 secured to you by the law. You were defended by an excellent
15 team of lawyers at public expense. Invoking the Court's
16 authority, you called witnesses from near and far.

17 Your lawyers supported your defense, not only with
18 fact witnesses speaking of everything from your childhood to
19 your years in prison after the murders, but also with highly
20 credentialed medical and psychiatric experts. The trial gave
21 meaning to the Supreme Court's admonition that the jury must
22 be able to consider and -- as they put it, quote, all
23 possible, relevant information about the individual
24 defendant, whose fate it must determine.

25 Throughout these proceedings, you were treated with

1 fairness, dignity, and humanity.

2 Now, a jury of your peers has spoken. You are
3 condemned to death.

4 All that need be said about your life was said and
5 considered at the trial. As you wait the implementation of
6 the jury's verdict, for all the remainder of your days, you
7 will live in a maximum security federal prison. You will
8 live with the horrific acts you committed. You will live
9 with the purposeless devastation you caused.

10 Now, stand for the imposition of sentence.

11 Pursuant to the jury's verdicts and Title 18,
12 United States Code Section 3594, on Count 2, I hereby
13 sentence you to death for the carjacking resulting in death
14 of Jonathan Rizzo.

15 And on Count 1, I hereby sentence you to
16 imprisonment for life without the possibility of release for
17 the carjacking resulting in death of Philip McCloskey.

18 You must also pay, by law, a \$200 special
19 assessment.

20 There is no fine, forfeiture, or restitution, as
21 none was imposed originally.

22 You have a right to appeal this sentence within
23 14 days of judgment. If you would like to appeal but cannot
24 afford a lawyer, one will be appointed to represent you at
25 public expense.

1 I hereby commit you to the custody of the attorney
2 general until the exhaustion of the procedures for appeal,
3 pursuant to Title 18, United States Code Section 3596(a).
4 When the sentence of death is to be implemented, the attorney
5 general shall release you to the custody of the United States
6 Marshal, who shall supervise the implementation of the
7 sentence, in a manner prescribed by the law of the State of
8 Indiana, where your execution shall take place.

9 Court is adjourned.

10 THE DEPUTY CLERK: All rise. This matter is
11 adjourned.

12 (Court in recess at 10:16 a.m.)

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1 **CERTIFICATE OF OFFICIAL REPORTER**

2

3

4 I, Rachel M. Lopez, Certified Realtime Reporter, in

5 and for the United States District Court for the District of

6 Massachusetts, do hereby certify that pursuant to Section

7 753, Title 28, United States Code, the foregoing pages

8 are a true and correct transcript of the stenographically

9 reported proceedings held in the above-entitled matter and

10 that the transcript page format is in conformance with the

11 regulations of the Judicial Conference of the United States.

12

13 Dated this 17th day of February, 2017.

14

15

16

17 /s/ RACHEL M. LOPEZ

18

19

20 _____

21 Rachel M. Lopez, CRR

22 Official Court Reporter

23

24

25